

MICHIGAN SUPREME COURT



Office of Public Information

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FOR IMMEDIATE RELEASE

JURY REFORM PROPOSALS PUBLISHED; PUBLIC COMMENT SOUGHT

LANSING, MI, July 13, 2006 – Proposals aimed at giving jurors more information – and helping them render fair, impartial verdicts as a result – have been published by the Michigan Supreme Court for public comment.

Potential changes include allowing the jury to request a view of a crime scene or other “material event” in a case. Other proposals concern jurors taking notes, asking questions of witnesses, and having “case notebooks” that include exhibits, jury instructions and other documents. Opening and closing statements by parties, final jury instructions, and the materials jurors may take into final deliberations are also covered, in addition to other matters.

Chief Justice Clifford W. Taylor said that the Court hopes to hear from the public – especially those who have already served on juries – about the reform package.

“Next to voting, there is no more important democratic function than jury service, yet many jurors are frustrated by practices that seem to hamper their decision-making ability,” said Taylor. “These measures have been proposed as ways to improve the jury experience – and help jurors seek the truth.”

While the Court routinely publishes proposed court rules for public comment, Taylor said, “the public is in an especially good position to assist the Court with this comprehensive reform package. Many Michigan citizens have already served on juries, and we hope they will draw on their experiences in advising the Court about these proposals.”

Taylor emphasized that publication of the reform package does not mean that the Court will adopt all the proposals in their current form. “That’s exactly why the Court wants public comment – we may need to make changes, reject some proposals, or add new ones,” he explained.

Proposals include:

- Combining rules about jury trials, currently located in different Michigan Court Rules, into a single rule.
- Allowing jurors, with the court’s permission, to submit questions to witnesses through the judge. While criminal procedure rules currently provide for jurors to ask questions of witnesses, the proposed rule would make it possible for jurors in civil cases to do so as

well. In addition, the proposal specifies that courts must make sure “that inappropriate questions are not asked” and that parties must “have an opportunity outside the hearing of the jury to object to the questions.”

- Allowing judges, in both civil and criminal trials, to “fairly and impartially sum up the evidence and comment to the jury about the weight of the evidence,” while also reminding jurors that they must decide fact issues for themselves.
- Requiring judges to encourage attorneys to provide “a reference document or notebook” with witness lists, relevant statutory provisions, admitted exhibits, and “other appropriate information to assist jurors in their deliberations.”
- Allowing jurors to request a “view of property or of a place where a material event occurred.” Current court rules allow the parties or the judge, but not the jury, to make such a request.
- Permitting jurors to not only take notes, but also to take their notes with them into deliberations. The proposal also states that jurors must keep their notes confidential, except as to other jurors, and that the court must ensure that notes are collected and destroyed after the trial. Current rules provide that, in criminal trials, jurors may take notes, but the judge has the option of preventing jurors from taking their notes into deliberations. There is no comparable court rule for civil cases.
- Requiring the judge to provide pretrial instructions to the jury, including “the duties of the jury, trial procedure, and the law applicable to the case” in addition to the elements of the civil claims or criminal charges in the case. Each juror would get a copy of the instructions from the court.
- Allowing the judge to instruct jurors that – although they may not decide the case until they have heard all the evidence – they may “discuss the evidence among themselves in the jury room during trial recesses” if all jurors are present, and if “such discussions are clearly understood as tentative pending final presentation of all evidence, instructions, and argument.”
- Requiring the plaintiff or prosecutor, in opening statements, to “make a full and fair statement of the case and the facts the plaintiff or the prosecutor intends to prove.” Defendants may make similar statements either immediately following the plaintiff or prosecutor’s statement, or immediately before presenting evidence. While current rules of criminal procedure allow this, there is no comparable court rule for civil cases.
- Encouraging parties to provide “concise, written summaries of depositions” (testimony taken outside the court) to be read at trial instead of the full deposition transcript. The proposal further provides that “[c]opies of the summaries should be provided to the jurors before they are read” at trial.
- Allowing courts to schedule expert testimony in a way that is designed to assist jurors’ understanding of the issues – for example, the court may schedule experts sequentially or may provide “for a panel discussion by all experts on a subject after or in lieu of testifying.” Experts could question each other during the panel discussion, which would be moderated by the trial judge or “a neutral expert.”
- Permitting parties to present “interim commentary” during the trial to help jurors understand the case or to put evidence in context.
- Requiring the judge to provide each juror with a copy of the final jury instructions. In giving final instructions, the judge would also be required to ask jurors if they need the

judge to clarify the instructions. Judges would also have to advise jurors that they may ask for clarification of jury instructions at a later time.

These and other proposed changes may be viewed at the “One Court of Justice” web site at <http://www.courts.michigan.gov/supremecourt/Resources/Administrative/2005-19.pdf>.

The deadline for comments is **November 1, 2006**. To comment, write to the Supreme Court Clerk at P.O. Box 30052, Lansing, MI 48909; comments may also be e-mailed to MSC_clerk@courts.mi.gov. When submitting a comment, please refer to **ADM File No. 2005-19**. Comments will be posted on the Court’s web site.

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